

DEC 29 2003

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CATHY A. CATTERSON
U.S. COURT OF APPEALS

LINDA EILENE DENNY,

Plaintiff - Appellant,

v.

BROOKS WHITLOCK; UNITED
STATES DEPARTMENT OF
AGRICULTURE, FARM SERVICE
AGENCY; FARM SERVICE AGENCY,

Defendants - Appellees.

No. 02-56430

D.C. No.
CV-00-00572-NAJ(AJB)

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Napoleon A. Jones, District Judge, Presiding

Submitted September 17, 2003**

Before: CHOY, FARRIS, and LEAVY, Circuit Judges.

Linda Denny appeals pro se the district court's dismissal of her action
against the United States Department of Agriculture, the Farm Services Agency

* This disposition is not appropriate for publication and may not be cited to or
by the courts of this circuit except as may be provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral
argument. See Fed. R. App. P. 34(a)(2).

("FSA"), and various individuals. The defendants moved to dismiss on the basis of Denny's lack of standing and that the district court did not have subject matter jurisdiction. The defendants, in a reply memorandum to the district court, argued that Denny was judicially estopped from pursuing her claims in the future. The district court determined that Denny did not have standing and that she was judicially estopped from pursuing her claims, dismissing Denny's claims with prejudice. We have jurisdiction pursuant to 28 U.S.C. § 1291. The decision of the district court may be affirmed on any ground finding support in the record. Oscar v. University Students Co-op Ass'n., 965 F.2d 783, 785 (9th Cir. 1992). We affirm the judgment of the district court on the basis that the district court did not have subject matter jurisdiction.

Denny's complaint consists of claims for breach of contract against the United States, and claims for torts committed by employees of the United States Department of Agriculture. The district court has no subject matter jurisdiction to hear contract claims against the United States exceeding \$10,000. See McKeel v. Islamic Republic of Iran, 722 F.2d 582, 590 (9th Cir. 1983). The district court has no subject matter jurisdiction to hear Denny's tort claims. An administrative tort claim was not filed with the appropriate agency prior to the filing of Denny's complaint. The administrative exhaustion requirements of 28 U.S.C. § 2675(a) are

jurisdictional in nature and are interpreted strictly. See Cadwalder v. United States, 45 F.3d 297, 300-01 (9th Cir. 1995).

Denny urges us to consider events that occurred following the entry of the district court's judgment, which, she argues, now entitle her to pursue her claims. The district court has no subject matter jurisdiction to hear these claims.

The judgment of the district court is affirmed and the case is remanded to the district court to dismiss Denny's complaint for lack of subject matter jurisdiction.

AFFIRMED AND REMANDED TO DISMISS FOR LACK OF
JURISDICTION.